

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ELLEN MCCORMICK : 18-CV-00916(ENV)(SJB)  
: :  
Plaintiff, : :  
: :  
-against- : :  
: :  
PHINIZY & PHEBE HANDMADE LLC (d/b/a :  
PHIN & PHEBES ICE CREAM), CRISTA :  
FREEMAN, AND JESS EDDY, :  
: :  
Defendants. : :  
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**AFFIRMATION IN SUPPORT  
OF REQUEST FOR  
CERTIFICATE OF DEFAULT**

Patrick J. Boyd hereby declares as follows:

1. My firm, the Boyd Law Group, PLLC, serves as attorneys for Plaintiff Ellen McCormick (“Plaintiff”) in this action.
2. This action was commenced pursuant to a Complaint filed on February 12, 2018.
3. Defendant Phinizy & Phebe Handmade LLC (d/b/a Phin & Phebes Ice Cream) (“Defendant”) was properly served on April 11, 2018. A copy of the affidavit of service for Defendant is attached hereto as Exhibit A.
4. The time for Defendant to answer or otherwise move with respect to the Complaint herein has expired.
5. Defendant has not answered or otherwise moved with respect to the Complaint, and the time for Defendant to answer or otherwise move has not been extended.
6. The Defendant is not an infant or incompetent. Defendant is not presently in the military service of the United States as is clear from the facts in this litigation.
7. Defendant is indebted to Plaintiff based on:
  - a. Defendant’s failure to pay Plaintiff the minimum wage pursuant to the Federal

- Labor Standards Act ("FLSA") 29 U.S.C. § 201 et seq.;
- b. Defendant's failure to pay Plaintiff's wages pursuant to New York Labor Law ("NYLL") §§ 193 and 198;
  - c. Defendant's retaliation against Plaintiff for complaining about Defendant's wage violations pursuant to 29 U.S.C. § 215(a)(3);
  - d. Defendant's retaliation against Plaintiff for complaining about Defendants' wage violations pursuant to NYLL § 215; and
  - e. Defendant's failure to provide Plaintiff with Notice and Acknowledgement of Pay Rate and Payday pursuant to NYLL § 195(1).

WHEREFORE, Plaintiff requests that the default of Defendant be noted and a certificate of default issued.

I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief, that the liability claimed is justly due to Plaintiff, and that no part thereof has been paid.

Dated: November 2, 2018  
New York, New York

**THE BOYD LAW GROUP, PLLC**

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